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*Attorneys for Debtor and Debtor-in-Possession*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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<b>In re</b>	:	<b>Chapter 11</b>
	:	
<b>LEHR CONSTRUCTION CORP.,</b>	:	
	:	<b>Case No. 11-10723 (SHL)</b>
<b>Debtor.</b>	:	
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**EX PARTE MOTION FOR ORDER SHORTENING TIME WITH RESPECT TO  
DEBTOR'S MOTION, PURSUANT TO SECTION 363 OF THE BANKRUPTCY CODE  
AND BANKRUPTCY RULES 2002, 6004 AND 9014, FOR AUTHORIZATION TO SELL  
AN ASSET OF THE DEBTOR, SUBJECT TO HIGHER OR OTHERWISE BETTER  
BIDS, FREE AND CLEAR OF ALL LIENS, CLAIMS, AND ENCUMBRANCES**

The above-captioned debtor and debtor-in-possession (the "Debtor") hereby files this motion (this "Motion to Shorten Time"), by and through its undersigned counsel Cooley LLP, seeking entry of an order shortening time for notice of hearing on the Debtor's motion dated May 3, 2011 (the "Motion"),<sup>1</sup> pursuant to § 363 of chapter 11, title 11 of the United States Code (the "Bankruptcy Code") and Rules 2002, 6004 and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), for entry of an order authorizing the Debtor to sell its right, title, and interest in those certain unused hours available for aircraft use pursuant to the Marquis Jet Cards, and respectfully represents:

<sup>1</sup> Capitalized terms used but not defined herein shall have the respective meanings ascribed to them in the Motion.

## **INTRODUCTION**

1. On February 21, 2011, the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtor continues to manage and operate its business as debtor-in-possession pursuant to §§ 1107 and 1108 of the Bankruptcy Code.

2. On March 11, 2011, the Office of the United States Trustee (the “U.S. Trustee”) appointed the official committee of unsecured creditors (the “Committee”).

## **The Debtor’s Business**

3. Lehr Construction Corp., a New York corporation, was founded in 1979 and has evolved from a small entrepreneurial business to one of the most respected builders in New York. Lehr specializes in interior construction and serves clients mainly throughout the New York metropolitan area. Lehr serves as construction manager and/or general contractor for its clients and Lehr’s construction professionals work closely with their in-house estimating, purchasing, quality control and value engineering professionals to ensure projects are completed on schedule, within budget, and with impeccable quality.

4. Lehr’s projects range from minor renovations to interior office build-outs over a million square feet. Lehr’s broad range of clients include retail stores, financial service firms, educational organizations, entertainment and media firms, and many others.

5. The Debtor’s headquarters is located in New York, New York and it has a warehouse facility in Woodhaven, New York. The Debtor’s primary assets include contract rights and accounts receivable for its on-going and completed projects.

## **JURISDICTION**

6. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

### **RELIEF REQUESTED AND BASIS THEREFOR**

7. Through this Motion to Shorten Time, the Debtor requests an order, pursuant to Bankruptcy Rule 9006(c)(1), shortening the notice required to be provided with respect to the Motion so that it may be heard on **May 20, 2011 at 10:00 a.m. (ET)**.

8. Bankruptcy Rule 9006(c)(1) authorizes this Court, for cause shown, to reduce the notice period required for a hearing to consider the Motion. See Fed. R. Bankr. P. 9006(c)(1). The *Order Pursuant to Sections 105(a) and (d) of the Bankruptcy Code and Bankruptcy Rules 1015(c), 2002(m), and 9007 Implementing Certain Notice and Case Management Procedures* (the “Case Management Order”, Dkt. No. 126), requires that all pleadings be served at least 14 calendar days before the next applicable hearing date, provided that (i) if the parties being served with the pleading include parties being served by U.S. mail, then the pleading must be filed and served at least 17 calendar days before the next applicable hearing; and (ii) nothing shall prejudice the right of any party to move the Court to request a reduction of any time period under Bankruptcy Rule 9006(b) and 9006(c), except for pleadings requesting relief pursuant to Bankruptcy Rules 2002(a) – (b). See Case Management Order, para. 24.

9. The Debtor is requesting that the Court shorten the notice period with respect to the Motion from 21 days’ notice to 17 days’ notice. The Debtor proposes that the objection deadline be scheduled for **May 17, 2011 at 4:00 p.m. (ET)**, which is (i) 3 days prior to the requested hearing date, and (ii) 4 days closer to the hearing than is required by the Case Management Order.

10. As described more fully in the Motion, the Marquis Interest consists of 26.5 hours of available flight time on the business jets available for use pursuant to the terms of the Marquis Jet Cards. Ample cause and exigencies exist to reduce the notice period. First, the Marquis

Interest is not necessary to the Debtor's on-going business operations. Second, if able to liquidate this asset, the Debtor will immediately have access to the proceeds of the sale, which will be used to fund the Debtor's continued operation during this chapter 11 case. Third, the Marquis Interest is not a readily marketable asset, nevertheless, Mr.Coffey, as well as other potential purchasers, have expressed interest in this asset, thus the Debtor seeks to maximize its proceeds by selling this asset as soon as possible to such interested parties. Finally, the Debtor filed the Motion as soon as the terms of the Purchase Offer from Mr. Coffey were finalized.

11. For the foregoing reasons, and for the reasons set forth in the Affidavit of James A. Beldner in support of this Motion to Shorten Time, attached hereto as **Exhibit A**, the Debtor submits that ample cause and exigencies exist to shorten notice as requested herein.

### **NOTICE AND PRIOR APPLICATION**

12. Pursuant to Bankruptcy Rule 9006(c)(1) and the Case Management Order, the Court may shorten time without notice. Accordingly, no notice of this Motion to Shorten Time has been given.

13. Notice of the Motion shall be provided to: (a) the Office of the United States Trustee for the Southern District of New York; (b) counsel to the Committee; (c) counsel to Capital One Bank; (d) counsel to the Debtor's postpetition lender; (e) the Internal Revenue Service; (f) Marquis Jet Partners, Inc.; (g) NetJets Inc.; and (h) all parties that have timely filed requests for notice under Bankruptcy Rule 2002, via overnight delivery or electronic mail or facsimile where available. The Debtor submits that the foregoing constitutes good and sufficient notice and that no other or further notice need be given.

14. No prior motion for the relief requested herein has been made to this or any other court.

**WHEREFORE**, the Debtor respectfully requests that this Court enter an order, substantially in the form of the proposed order attached hereto as **Exhibit B**, granting the relief requested herein and such further relief as this Court deems just and equitable.

Dated: May 3, 2011  
New York, New York

By: /s/ James A. Beldner  
James A. Beldner

COOLEY LLP  
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Lesley A. Kroupa

*Attorneys for Debtor and Debtor-in-Possession*

**EXHIBIT A**

**Affidavit of James A. Beldner**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re :

Chapter 11

LEHR CONSTRUCTION CORP., :

Debtor. :

Case No. 11-10723 (SHL)  
----- X

**AFFIDAVIT OF JAMES A. BELDNER IN SUPPORT OF *EX PARTE* MOTION FOR  
ORDER SHORTENING TIME WITH RESPECT TO DEBTOR'S MOTION,  
PURSUANT TO SECTION 363 OF THE BANKRUPTCY CODE AND BANKRUPTCY  
RULES 2002, 6004 AND 9014, FOR AUTHORIZATION TO SELL AN ASSET OF THE  
DEBTOR, SUBJECT TO HIGHER OR OTHERWISE BETTER BIDS, FREE AND  
CLEAR OF ALL LIENS, CLAIMS, AND ENCUMBRANCES**

STATE OF NEW YORK )  
) SS.:  
COUNTY OF NEW YORK )

JAMES A. BELDNER, being duly sworn, deposes and says:

1. I am an attorney admitted to practice before this Court and a partner of Cooley LLP. I submit this affidavit in support of the motion filed contemporaneously herewith (the "Motion to Shorten Time")<sup>1</sup> for an order shortening time pursuant to Rule 9006(c) of the Bankruptcy Rules with respect to the hearing on the Debtor's motion, pursuant to § 363 of the Bankruptcy Code and Rules 2002, 6004 and 9014 of the Bankruptcy Rules, for entry of an order authorizing the Debtor to sell its right, title, and interest in those certain unused hours available for aircraft use pursuant to the Marquis Jet Cards (the "Motion").

2. Through the Motion to Shorten Time, the Debtor seeks an order setting a hearing on the Motion for May 20, 2011 at 10:00 a.m. (ET).

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<sup>1</sup> Capitalized terms used but not defined herein shall have the respective meanings ascribed to them in the Motion to Shorten Time.

3. As described more fully in the Motion, the Marquis Interest consists of 26.5 hours of available flight time on the business jets available pursuant to the terms of the Marquis Jet Cards. Ample cause and exigencies exist to reduce the notice period. First, the Marquis Interest is not necessary to the Debtor's business operations. Second, if able to liquidate this asset, the Debtor will immediately have access to the proceeds of the sale, which will be used to fund the Debtor's continued operation during this chapter 11 case. Third, the Marquis Interest is not a readily marketable asset, nevertheless, Mr. Coffey, as well as other potential purchasers, have expressed interest in this asset, thus the Debtor seeks to maximize its proceeds by selling this asset as soon as possible to such interested parties. Finally, the Debtor filed the Motion as soon as the terms of the Purchase Offer from Mr. Coffey were finalized.

4. In light of the foregoing, the Debtor requests that the Court shorten the twenty-one (21) day notice period so that the Motion may be heard at the next omnibus hearing on May 20, 2011. Further, the Debtor requests that this Court set a deadline for the service and filing of objections to the Motion of May 17, 2011 at 4:00 p.m. (ET).

/s/ James A. Beldner  
JAMES A. BELDNER

Sworn to before me this  
3<sup>rd</sup> day of May, 2011

/s/ Theresa K. Hammond  
Notary Public

THERESA K. HAMMOND  
Notary Public, State of New York  
No. 4650925  
Qualified in Suffolk County  
Commission Expires July 31, 2013



**EXHIBIT B**  
**Proposed Order**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

----- X  
In re :

Chapter 11

LEHR CONSTRUCTION CORP., :

:

Case No. 11-10723 (SHL)

Debtor. :

----- X

**ORDER SHORTENING TIME PURSUANT TO RULE 9006(c) OF THE FEDERAL  
RULES OF BANKRUPTCY PROCEDURE WITH RESPECT TO DEBTOR'S MOTION,  
PURSUANT TO SECTION 363 OF THE BANKRUPTCY CODE AND BANKRUPTCY  
RULES 2002, 6004 AND 9014, FOR AUTHORIZATION TO SELL AN ASSET OF THE  
DEBTOR, SUBJECT TO HIGHER OR OTHERWISE BETTER BIDS, FREE AND  
CLEAR OF ALL LIENS, CLAIMS, AND ENCUMBRANCES**

Upon the *ex parte* motion dated May 3, 2011 (the "Motion to Shorten Time") of the above-captioned debtor and debtor-in-possession (the "Debtor"), seeking entry of an order shortening time for notice of hearing on the Debtor's motion dated May 3, 2011 (the "Motion"),<sup>1</sup> pursuant to § 363 of chapter 11, title 11 of the United States Code (the "Bankruptcy Code") and Rules 2002, 6004 and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), for entry of an order authorizing the Debtor to sell its right, title, and interest in those certain unused hours available for aircraft use pursuant to the Marquis Jet Cards; and upon the Affidavit of James A. Beldner, annexed to the Motion to Shorten Time as Exhibit A; and the Court having subject matter jurisdiction to consider the Motion to Shorten Time and the relief requested therein pursuant to 28 U.S.C. § 1334 and the Standing Order of Referral of Cases to Bankruptcy Court Judges of the District Court for the Southern District of New York, dated July 19, 1984 (Ward, Acting C.J.); and consideration of the Motion to Shorten Time and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being

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<sup>1</sup> Capitalized terms used but not defined herein shall have the respective meanings ascribed to them in the Motion.

proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that no notice of the relief requested in the Motion to Shorten Time need be provided; and it appearing that the legal and factual bases set forth in the Motion to Shorten Time establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is

ORDERED that the Motion to Shorten Time is granted as set forth herein; and it is further

ORDERED that the twenty-one (21) day notice period, otherwise applicable, be shortened to seventeen (17) days, pursuant to Bankruptcy Rule 9006(c)(1); and it is further

ORDERED that the hearing to consider approval of the relief requested in the Motion shall be held on **May 20, 2011 at 10:00 a.m. (Prevailing Eastern Time)**, before the Honorable Sean H. Lane, United States Bankruptcy Judge of the United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, New York 10004, or as soon thereafter as the Debtor may be heard; and it is further

ORDERED that the deadline for service and filing of objections to the Motion shall be **May 17, 2011 at 4:00 p.m. (Prevailing Eastern Time)**.

Dated: May \_\_\_, 2011  
New York, New York

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HONORABLE SEAN H. LANE  
UNITED STATES BANKRUPTCY JUDGE